IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 814 of 2006

Rajeev Gupta, S/o Bal Krishana Gupta
Resident of Mohalla Daat Mandi,
Jawalapur, P.S. Jawalapur,
District Haridwar.

…… Applicant

Versus

1. State of Uttaranchal
2. S.K. Dikshit (Sunil Kumar Dikshit)
   S/o not known to the applicant
   R/o F- 165, Indera Lok Colony,
   Krishana Nagar, Lucknow.
3. Rajeev Mittal S/o Not known
   Marico Limited,
   Office 5, D.D.A. Local Shopping Complex,
   IInd Floor, Okhala, Commercial Phase – 2,
   New Delhi.
4. Deepak S/o Not known
   Proprietor Doon Carring Corporation, D.Dun
   At present R/o HCL Compound,
   Near Old Meda Meal, Niranjanpur, Dehradun.
5. Ashish Maheshwari
   S/o Devki Nandan Maheshwari
   R/o Maheshwari Traders, Railway Road,
   Jawalapur, P.S. Jawalapur, Distt. Haridwar.

…….Respondents

Mr. Sanjeev Singh, Advocate for the applicant.
Mr. Lalit Verma, A.G.A. for the respondent State.

Hon. Prafulla C. Pant, J.

Heard Mr. Sanjeev Singh, learned counsel for the petitioner and Mr. Lalit Verma, learned A.G.A. for the State.

2) By means of this petition, moved under Section 482 of the Code of Criminal Procedure, 1973 (for brevity hereinafter Cr.P.C.), the petitioner has challenged the order dated 29.07.2006, passed by learned Sessions Judge, Haridwar, in

criminal revision No. 225 of 2006, whereby the order summoning the accused persons (present respondent Nos. 2 to 5) is set aside by said court.

3) Learned counsel for the petitioner drew attention of this Court to the principle of law laid down in ***Adalat Prasad Vs. Roop Lal Jindal and others, reported in (2004) 7 Supreme Court Cases 338,*** and argued the against the interlocutory order passed under Section 204 of Cr.P.C., the Sessions Judge had no jurisdiction to entertain the revision. Accepting the argument, in view of the aforesaid case law, the order of learned Sessions Judge is set aside. However, object of Section 482 of Cr.P.C., cannot be ignored and a wrong or illegal order cannot be permitted to be restored on a technical ground. Since, the impugned order which is being set aside was passed by the revisional court to set aside the order passed by the Magistrate, summoning the accused, which was not sustainable in law. A charge sheet was already pending against some of the accused in respect of same crime relating to which the complaint was entertained and the respondent Nos. 2 to 5 were summoned.

4) Therefore, in the circumstances, after going through the papers on record, the petition under Section 482 Cr.P.C., is disposed of with the direction that the impugned order dated 29.07.2006, passed by learned Sessions Judge, Haridwar, is quashed. However, simultaneously, the order dated 19.05.2006, passed by the Judicial Magistrate, Haridwar, summoning the respondent Nos. 2 to 5 is also set aside. The Petition stands disposed of, accordingly .

(Prafulla C. Pant, J.)

Dt. October 19, 2006.
H. Negi